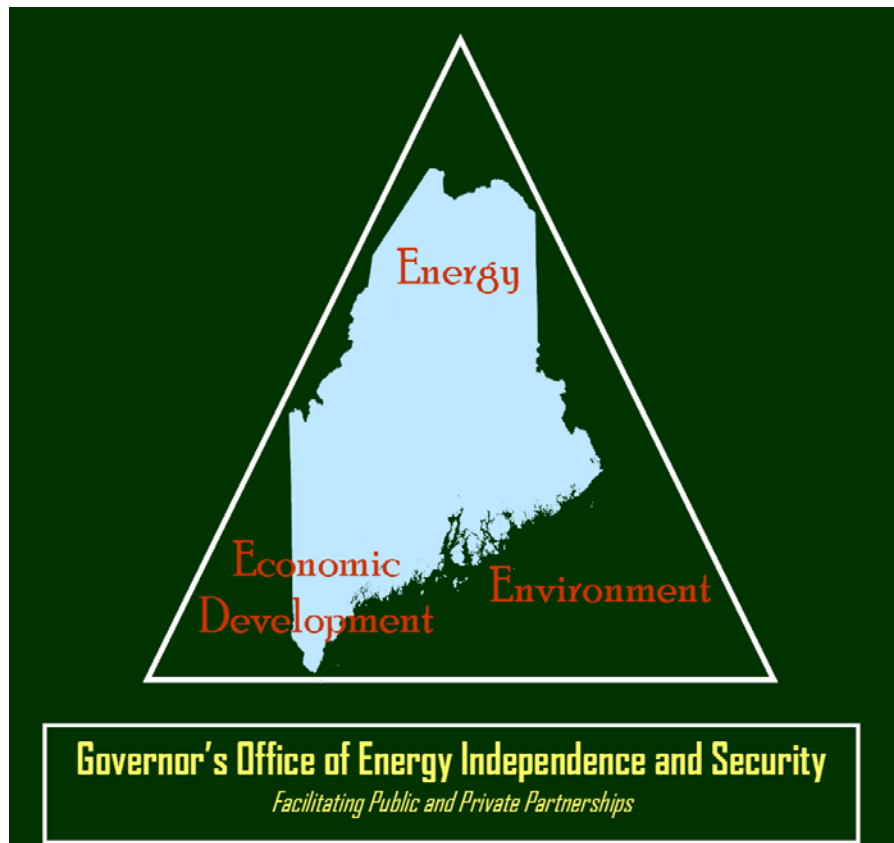


REQUEST FOR PROPOSALS

RFP # 201108133

WIND ENERGY DEVELOPMENT STATUS ASSESSMENT

**EXAMINATION OF STATE OF MAINE WIND ENERGY
DEVELOPMENT GOALS, PERMITTING PROCESSES,
DECOMMISSIONING PLANS AND OTHER ISSUES**



September 9, 2011

REQUEST FOR PROPOSALS

RFP # 201108133

WIND ENERGY DEVELOPMENT STATUS ASSESSMENT

EXAMINATION OF STATE OF MAINE WIND ENERGY DEVELOPMENT GOALS, PERMITTING PROCESSES, DECOMMISSIONING PLANS AND OTHER ISSUES

Section 1 – Request for Proposals (RFP #201108133)

The Governor's Office of Energy Independence and Security (OEIS) is issuing this "Request for Proposals" (RFP) to develop a State of Maine Wind Energy Development Status Assessment (*hereinafter*, "Wind Assessment,"). The selected provider of services (*hereinafter* "Provider") shall specifically examine and provide the OEIS with a report on specific issues outlined in *Section 5 – Scope of Work and Components of Assessment* of this RFP, as required by RESOLVE Chapter 93, LD 1366 (125th Legislature).

Section 2 – Background

As required by *The Wind Energy Development Act*, enacted as Public Law 2007, Chapter 661, Part A, section 8 and amended by Public Law 2009, chapter 642, Part A, section 9, the Governor's Office of Energy Independence and Security (OEIS) is to undertake an annual assessment of progress on meeting wind energy development goals.

Maine's statutory goals for wind power development include the following:

- At least 2,000 Megawatts (MW) of installed capacity by 2015;
- At least 3,000 MW of installed capacity by 2020, with potential to produce 300 MW or more of offshore wind power;
- At least 8,000 MW by 2030 including 5,000 MW located in coastal waters.

OEIS is required, on an annual basis, to monitor and make an assessment of tangible benefits provided by expedited wind energy developments and the State's progress toward meeting the wind energy development goals and, by December 2013, in consultation with other state agencies as appropriate, conduct a full review of the status of meeting the goals for 2015 and the likelihood of achieving the goals for 2020.

According to a 2011 OEIS report, the State of Maine has met 13.28 percent of its wind energy goals with 265.5 MW of installed capacity (based on the 2015 goal). The OEIS, in conversations with both regulators and developers has found that overall Maine's wind laws and permitting process are working as intended. There has been much interest in developing wind energy development projects in Maine due to the excellent wind resources, potential development of transmission, many operational wind energy projects and interest in renewable energy generation and reduction of greenhouse gas emissions. There are numerous wind energy projects currently in development and others in the discussion phase.

Recognizing that some Maine citizens are opposed to grid-scale development and have legitimate issues, the Maine State Legislature passed and the Governor signed legislation in 2011 – Resolve, Chapter 93, LD 1366 (*Resolve, To Clarify the Expectation for the 2012 Assessment of Progress on Meeting Wind Energy Development Goals*) – to further refine the OEIS analysis and require updates of wind generation goals with an assessment of various factors.

Section 3 – RFP Information

3.1 – Request Number

RFP #201108133

3.2 – Date Issued

September 9, 2011

3.3 – Contact

Jeffrey Marks
Deputy Director
Governor's Office of Energy Independence and Security
62 State House Station
Augusta, Maine 04333-0062
(202) 287-8927
Jeffrey.Marks@maine.gov

3.4 – Written Questions and Answers

Questions regarding the meaning of any RFP provision must be submitted in writing to the Contact listed above, no later than 5 p.m. on **September 16, 2011**. Questions may be transmitted by e-mail and must be clearly marked "RFP #201108133 - Questions". All substantive questions received by the deadline will be answered and communicated to all interested parties. **Only questions asked in written form will be answered.**

3.5 – Proposal Submission

A signed original and 5 copies of the proposal must be clearly marked with the bidder's return address and the notation: "**Proposal: RFP #201108133 – Wind Development Assessment**" and delivered to the Division of Purchases, Burton Cross Bldg., 111 Sewall Street, 4th floor, 9 State House Station, Augusta, ME 04333-0009 no later than 2:00 p.m. local time on **September 28, 2011** at which time and place they will be opened. Only proposals physically received at the Division of Purchases prior to the stated time will be considered. The State assumes no responsibility for delays caused by any package or mail delivery service.

Postmarking by the due date WILL NOT suffice. Faxed or e-mailed proposals will not be accepted. Proposals received after the 2:00 p.m. deadline will be rejected, without exception.

Proposals must include a cover page and not be more than 25 pages, including qualifications and other supporting materials.

3.6 – Cost of Proposal Preparation

The entire cost of preparing and submitting a proposal, and of attending any interview or oral presentation, if required, will be borne by the bidder.

3.7 – Disclosure of Data

According to State procurement law, the content of all proposals, correspondence, addenda, memoranda, working papers, or any other medium which discloses any aspect of the request for proposals process will be considered public information when the award decision is announced. This includes all proposals received in response to this RFP, both the selected proposal and the proposal(s) not selected, and includes information in those proposals that a bidder may consider to be proprietary in nature. Therefore, the OEIS makes no representation that it can or will maintain the confidentiality of such information. All submissions will become the property of the State of Maine.

3.8 – Award

It is the OEIS's intent to award this contract as soon after receiving proposals as possible and to begin work as soon as possible after the decision on the award is made.

The OEIS reserves the right to modify this schedule at its discretion. Notification of changes will be sent to all entities that request this RFP.

All applicants will be notified of the award decision in writing via email as soon as a decision is made.

Section 4 – Wind Energy Development Status Assessment Description

4.1 – General Description

As required by *The Wind Energy Development Act*, enacted as Public Law 2007, Chapter 661, the Governor's Office of Energy Independence and Security (OEIS) is responsible for reporting to the Joint Standing Committee on Utilities, Energy and Technology on the "State of Maine's wind energy goals and realization of tangible benefits" by January 15 of each year. In addition, by December 2013, the OEIS is responsible, in consultation with other state agencies as appropriate, for conducting a full review of the status of meeting the goals for 2015 and the likelihood of achieving the goals for 2020.

According to the Statute, the goals for wind energy development in the State are that there be:

- A. At least 2,000 MW of installed capacity by 2015;
- B. At least 3,000 MW of installed capacity by 2020, including 300 MW or more from generation facilities located in coastal waters, or in proximate federal waters; and
- C. At least 8,000 MW of installed capacity by 2030, including 5,000 MW from generation facilities located in coastal waters or in proximate federal waters.

The OEIS has been monitoring the progress and has made an assessment of the State's progress toward meeting the wind energy development goals established in the Maine Revised Statutes, Title 35-A, section 3404, subsection 2 and the realization of the tangible benefits of wind energy developments as well as other considerations and pertinent questions included in the law. To accomplish the above task, the OEIS conferred with both the Department of Environmental Protection (DEP) and the Land Use Regulation Commission (LURC), the State's two permitting and regulatory entities responsible for permitting wind energy projects. The OEIS also met with and had discussions with wind energy developers and members of the public to gauge process and progress of wind energy development in the State.

The OEIS published and released these initial findings in its April 2011 report, *Tracking Progress Toward Meeting Maine's Wind Energy Goals: Including an Examination of Current Wind Energy Noise Guidelines and the Opportunity for Public Hearing*. This report can be found at <http://www.maine.gov/oeis/publications.html>.

LD 1366, *Resolve, To Clarify the Expectation for the 2012 Assessment of Progress on Meeting Wind Energy Development Goals*, is a compilation of ideas from bills introduced in the 1st Session of the 125th Legislature, amended to specify that certain information concerning wind power development in Maine be included in the OEIS's next annual report on wind energy progress. The proposed bills generally covered the following topics:

- Noise and visual standards
 - L.D. 711 *An Act To Regulate Noise from Wind Turbines in Residential Developments*
 - L.D. 865 *An Act To Require the Department of Environmental Protection To Enforce Standards for Smaller-scale Wind Energy Development in Organized Areas*
 - L.D. 1234 *An Act To Restore the Uniform Visual Permitting Standard for Wind Power Projects*
 - L.D. 1443 *An Act To Improve the Permitting Process for Wind Energy Developments and To Protect Maine's Quality of Place*

- L.D. 1479 *An Act To Minimize Conflicts between Property Owners and Grid-scale Wind Energy Developments*
- Wind energy benefits
 - L.D. 1366 *An Act To Update the Maine Wind Energy Act To Include Low-emission Energy*
 - L.D. 1236 *An Act To Amend the Legislative Findings in the Maine Wind Energy Act*
 - L.D. 1411 *An Act To Facilitate Transparency and Accountability while Reducing Electricity Costs*
- Health impacts
 - L.D. 502 *An Act To Place a Moratorium on Expedited Permitting of Grid-scale Wind Energy Development*
 - L.D. 1035 *Resolve, To Establish Baseline Information on Health Impacts from Grid-scale Wind Energy Development*
- Property Values, Tangible Benefits, Community Benefit Packages
 - L. D. 1042 *An Act To Preserve and Protect Citizens' Property Rights and Values*
 - L.D. 1362 *An Act To Ensure Accurate Valuation of a Community Benefits Package for Communities That Host Wind Energy Developments*
- Other wind issues
 - L.D. 1170 *An Act To Establish a Code of Ethics for Individuals Involved in Grid-scale Wind Energy Development*
 - L.D. 1291 *Resolve, To Promote Community Wind Energy Development*

The OEIS is issuing this RFP for a Provider to update the wind energy development status assessment (*hereinafter*, “Wind Assessment”) with specific focus on the required components listed in LD 1366 (see Scope of Work and Components of Assessment in Section 5).

4.2 – Purpose

Maine is a leader in wind power development. While the State’s wind goals are aggressive, the OEIS does not believe they should be abandoned without further analysis in the face of their potential to help us deliver economic, energy and environmental benefits on behalf of Maine’s residents and businesses. Achieving these goals, or enacting legislation revising the goals to reflect new information and data, will require thoughtful planning and balanced decision-making in order to tap into the State’s

significant wind resources, protect Maine's quality of place and deliver clean, affordable power.

We recognize that achieving these goals is not entirely within our control and will depend on factors such as technology developments, future energy costs, federal policies and other factors. However, some components are within our control, including but not limited to:

- Expediting wind permits under carefully considered and controlled circumstances.
- Providing significant tangible benefits to host and neighboring communities and residents, including construction-related employment; local purchase of materials; employment in operations and maintenance; reduced property taxes; reduced electrical rates; natural resource conservation.
- Requirements that an applicant for a wind energy development is required to establish a community benefits package.
- Opportunity for public participation.

Through extensive research and discussions with experts, the OEIS has found that the topics of noise standards, visual impacts, setback requirements, and regulation of wind turbine noise in particular, to be highly technical, complex and complicated subjects. During consideration of these issues in the 125th Legislature Committee hearings and work sessions, the OEIS did not assert it had all the answers at the beginning of the process, nor do we believe we are experts on the subject at this time. However, the OEIS completed a thorough examination of the issues and came to some conclusions and provided recommendations that may be helpful in guiding policymakers in Maine to improve the process relating to the permitting of wind energy development and modifications to current noise regulations.

Wind power is one part of a broad energy portfolio that may help to achieve the following goals:

- Reduction of dependence on fossil fuels;
- Creation of jobs and other economic benefits, especially in rural areas;
- Generation of renewable energy;
- Reduction of greenhouse gas emissions;
- Reduction of industrial pollution from power plants in the region; and
- Creation of additional economic opportunities.

Maine is not in a unique situation compared to other U.S. states and countries around the world that have wind energy projects in operation or under development. It is clear that the DEP and LURC have learned from past experiences and have begun to adopt 'best practices' that have been developed over the last several years. This experience has proven valuable and should help guide the permitting process in the future.

The purpose of this RFP is to assist the OEIS in examining ways to reduce the price of electricity to Maine people in a way that is environmentally responsible, optimizes economic growth and preserves Maine's quality of place and life.

To that end, the OEIS is seeking a Provider to revise the Wind Assessment to explore opportunities for and encourage the development of wind energy production in the state in a manner that is consistent with state and federal environmental standards and community expectations and that achieves reliable, cost-effective, sustainable energy production. The Provider will serve as a technical resource to update the status of wind energy development in Maine with a focus on helping the OEIS formulate recommendations to the Maine State Legislature, Joint Standing Committee on Energy, Utilities and Technology.

The OEIS will administer a contract with the successful bidder that will focus on the tasks as described in Section 5 ("Scope of Work and Components of Assessment") below. The successful bidder will provide a Wind Assessment committed to advancing the principles, programs, processes, priorities, timetables and the comprehensive and integrated steps necessary to secure a safe, clean and affordable energy future.

4.3 – Maine Comprehensive Energy Action Plan

The Maine Comprehensive Energy Action Plan outlines the necessary action steps the State of Maine should consider implementing in order to achieve energy security over the next 50 years. The Plan's goals, objectives and implementation measures are built on six overarching and interconnected strategies:

1. Strengthening energy efficiency, conservation and weatherization;
2. *Fostering renewable energy;*
3. Improving transportation and fuel efficiencies;
4. *Upgrading electricity and natural gas services and transmission infrastructure;*
5. State of Maine Leading by Example; and
6. Energy Emergency preparedness and response.

The following three objectives have defined the purposes of fostering wind as a renewable resource in the Maine Energy Plan:

- To make Maine a leader in wind power development;
- To protect Maine's quality of place and natural resources; and
- To maximize the tangible benefits Maine people receive from wind power development

Section 5 – Scope of Work and Components of Plan

The Provider will, as outlined in RESOLVE, Chapter 93, LD 1366, assist the OEIS in its 2011 annual assessment of progress on meeting the wind energy development goals as described above.

Proposals are requested for a Provider to prepare and revise the Wind Assessment with the following components as important for a comprehensive, analytical and dynamic examination. The OEIS and the successful bidder will discuss, prior to beginning the work, the components that are necessary and should be prioritized in the Wind Assessment.

The Provider will prepare the economic and energy information and data needed and format in a clear, comprehensible arrangement with narrative, graphs, tables and documents that will permit the OEIS to formulate substantive recommendations based on the information and data.

5.1 – Statewide Permitting Standards

All statewide permitting standards that apply to wind development, including but not limited to noise standards, visual standards, setback requirement and decommissioning plans.

- Information will be used by the OEIS in its annual examination of the wind project permitting process.

5.2 – Visual Impact Criteria

The criteria used during the permitting process to consider the visual impact of an expedited grid-scale wind energy development, the permits issued and any potential changes that could be made to the criteria, including, but not limited to potential changes to the criteria that require the primary siting authorities to consider insignificant the visual impacts greater than 8 miles from a scenic resource of state or national significance as defined in the Maine Revised Statutes, Title 35-A, section 3451, subsection 9.

- Information will be used by the OEIS in its annual examination of the wind project permitting process.

5.3 – Decommissioning Plans

The quality of submitted decommissioning plans and potential recommendations for mechanisms to provide financial assurance for funding decommissioning.

- Information will be used by the OEIS in its annual examination of the wind project permitting process.

5.4 – Permitting Process

The time required for completing the permitting process, including the time required for conducting environmental surveys and preparing and submitting the applications and the associated costs.

- Information will be used by the OEIS in its annual examination of the wind project permitting process.

5.5 – Greenhouse Gas Emission Reductions

The accuracy of the estimates generated by state agencies and wind energy developers for greenhouse gas reductions that are a result of wind energy development in Maine.

Potential recommendations for a standardized protocol for estimated greenhouse gas emission reductions as a result of wind energy development in Maine, if necessary.

- Data will be used by OEIS to examine the status of Maine and other New England States in making progress toward reducing greenhouse gas emission.

5.6 – Number of Wind Turbines Necessary to Meet Wind Energy Goals

The number of wind turbines necessary to meet the goals, market conditions, development trends, emission goals, siting policies, cumulative impacts and other factors that may make it necessary to amend wind energy development goals.

- Data will be used by OEIS to develop recommendations regarding wind energy development goals established in Title 35-A, section 3404, subsection 2.

5.7 – Expedited Permitting Areas

Whether places should be removed from expedited permitting areas, including, but not limited to mountain area protection subdistricts, as described by the Department of Conservation, Maine Land Use Regulation Commission Rule Chapter 10.

- Information will be used by the OEIS in development of recommendations regarding identification of places within the State's unorganized and deorganized areas for inclusion in the expedited permitting area established pursuant to Title 35-A, chapter 35-A.

5.8 – Additional Areas of Examination

Once the items above (Sections 5.1 – 5.7) are undertaken as part of the Provider's Wind Assessment, the consultant will also examine, as necessary within available resources:

- Methods by which permitting authorities could consider the cumulative impact on natural resources at the state or regional level, including but not limited to mountain areas and to scenic resources of state or national significance as defined in the Maine Revised Statutes, Title 35-A, section 3451, subsection 9.
- Economic effects of wind energy development on the tourism industry.
- Costs associated with transmission upgrades for the purpose of transmitting wind energy.
- Implications of the intermittency of wind power for regional markets and the grid, including capacity charges, the forward capacity market and electricity price volatility.

5.9 – OEIS Wind Assessment – Technical Assistance

As needed, the consultant shall assist the OEIS with its annual assessment of progress on meeting the wind energy development goals pursuant to Public Law 2007, chapter 661, Part A, section 8, as amended by Public Law 2009, chapter 642, Part A, section 9.

As required by statute and described in Section 2 and Section 4.1 of this RFP, the OEIS, on an annual basis, monitors and makes an assessment of tangible benefits provided by expedited wind energy developments in accordance with the Maine Revised Statutes, Title 35A, section 3454 and the State's progress toward meeting the wind energy development goals established in the Maine Revised Statutes, Title 35A, section 3404, subsection 2. By December 2013, in consultation with other state agencies as appropriate, the OEIS is to conduct a full review of the status of meeting the goals for 2015 and the likelihood of achieving the goals for 2020.

The OEIS annual assessment includes:

- A. Examination of experiences from the permitting process;
- B. Identified successes, including tangible benefits realized from wind energy development, in implementing the recommendations contained in the February 2008 final report of the Governor's Task Force on Wind Power Development in Maine pursuant to Executive Order issued May 8, 2007;

- B-1. A summary of tangible benefits provided by expedited wind energy developments including, but not limited to, documentation of community benefits packages and community benefit agreement payments provided. The assessment must also include a review of the community benefits package requirement under Title 35A, section 3454, subsection 2 and the actual amount of negotiated community benefits packages relative to the statutorily required minimum amount;
- C. Projections of wind energy developers' plans, as well as technology trends and their state policy implications;
- D. The status of Maine and each of the other New England states in making progress toward reducing greenhouse gas emissions; and
- E. Recommendations, including, but not limited to, any changes regarding:
 - (1) The wind energy development goals established in Title 35A, section 3404, subsection 2;
 - (2) Permitting processes for wind energy development;
 - (3) Identification of places within the State's unorganized and deorganized areas for inclusion in the expedited permitting area established pursuant to Title 35A, chapter 34A; and
 - (4) Creation of an independent siting authority to consider wind energy development applications; and
 - (5) The community benefits package requirement under Title 35A, section 3454, subsection 2.

The OEIS will continue to prepare its annual assessment pursuant to the Statute, but may call upon the Provider in its performance of Sections 5.1 – 5.8 to assist the OEIS in its assessment on other relevant topics not included in Sections 5.1 – 5.8 of this RFP.

Section 6 – Proposal Requirements, Evaluation of Proposals and Scoring Weight

All eligible proposals will be reviewed on a competitive basis. Proposals will be scored on a scale of 0 to 100 points using the following criteria. To be considered, proposals must include the following items.

6.1 – Qualifications (45 points)

A description of firm's experience and ability to complete the scope of work and tasks as described in Section 5. In addition, please include a description of any experience with wind energy projects; renewable energy economic and energy data collection, management and analysis; state or federal wind energy or renewable energy policy, legislation or regulation; and/or energy programs, including those through the U.S. Department of Energy and State of Maine programs. Demonstrated

ability to analyze and assess components and impacts of renewable energy projects, including wind power. Areas of demonstrated analysis may include renewable energy siting, permitting, finance, capacity, construction, economic benefits, generation and transmission, standards and regulations (e.g., noise, visual), etc.

Demonstration of the preparation and use of analytical charts, graphs, documents, tables and narratives to illustrate economic and energy data is important in formulating public policy and will be a factor in evaluation of the proposal.

Please describe knowledge of State of Maine energy infrastructure, supply, demand, markets, regulations and other energy-related issues as well as knowledge of energy resource types, technologies and systems, programs and authorities.

6.2 – Proposed Project Staff (20 points)

A description of lead staff qualifications, including a biography or resume for each staff person focused on experience relevant to this RFP. Please include brief descriptions of experience on similar projects, as well as a list of references for past clients for whom similar services have been rendered, including contact information.

The selected vendor will be required to provide the project staff that is proposed. If a substitution is necessary after award, the selected vendor must make such a request in writing, accompanied by a biography and resume for the substitute individual, as well as an explanation as to why the substitute is equivalent to the staff member being replaced. Approval of the substitution shall be at the discretion of OEIS.

6.3 – Costs and Schedule (25 points)

A firm fixed cost for developing the Wind Assessment and performing all of the tasks detailed in Section 5. The fixed cost proposal must be accompanied by an estimated price breakdown for each component; an estimate of the hours associated with each task; and identification of the staff member who will perform each task.

The proposal with the lowest firm, fixed cost will receive the full 25 points. Other proposals' cost points will be calculated by dividing the lowest cost proposal by the cost of the proposal being rated, and multiplying the product by 25.

6.4 – Strategic Plan for Performing Tasks in Section 5 (10 points)

A brief description of the steps to be performed to achieve the scope of work and components outlined in Section 5 above.

6.5 – Conformance with State of Maine Requirements

The successful bidder will be required to enter into a State of Maine Agreement to Purchase Services (BP54), a copy of which is attached for informational purposes. Submission of a proposal in response to this RFP will be understood as a bidder's understanding and acceptance of the terms in Rider B of that Agreement. The reporting requested from awardees throughout the grant period will include both state and federal requirements. The scope of work (Rider A) of the contract entered into by the parties may consist of the RFP, the signed proposal submitted by the Applicant, and the specifications including all modifications thereof, or a separate scope of work consistent with those documents may be mutually agreed to by the parties.

Section 7 – Contracting Entity

This Wind Assessment project will be managed by the Governor's Office of Energy Independence and Security (OEIS).

The OEIS provides leadership in the development of public and private partnerships that achieve the State of Maine's goal of energy independence and security with clean, reliable, affordable, sustainable, indigenous, and renewable resources.

In conjunction with other departments of state government, the Legislature, and private and nonprofit sectors, the OEIS provides an open and collaborative decision-making environment to create public and private partnerships that advance the achievement of energy independence while optimizing Maine's energy security, economic development and environmental health.

Section 8 – Contract Award

8.1 Contract

The resulting contract will take the form of a "State of Maine Agreement to Purchase Services." Details may vary slightly and will be negotiated by the OEIS and the applicant.

8.2 Award Decisions

The final award decision will be made by the OEIS and will be communicated to all applicants in writing via email. The OEIS reserves the right to reject any application that in its sole determination does not meet the requirements and specifications of this RFP, Maine law, or generally accepted practices.

The OEIS may award a grant based on the applications received, without discussion, or may conduct limited discussion or interviews. The OEIS may issue amendments to this RFP or withdraw the RFP entirely. No amendment to the

RFP can be made within seven (7) days of the proposal due date without extending the due date to allow a full seven (7) days for bidders to incorporate the changes into their proposals.

8.3 Reporting Requirements

Significant reporting requirements apply to these funding opportunities. Applicants receiving awards will be required to submit, at a minimum, quarterly financial and narrative reports on project progress in electronic format to the OEIS. These reporting requirements will be strictly enforced so that the OEIS may comply with federal and state reporting requirements. The contractor should be prepared to keep rolling records so as to be able to provide up-to-date information upon request. Any entity that cannot commit to filing the necessary reports will not be considered for an award. More information on reporting requirements will be provided at the time of an award.

8.4 Other Terms and Conditions

By responding to this RFP, the Applicant agrees that the Applicant has read and understands all requirements of this RFP. The Applicant is responsible for reviewing all requirements and the provisions herein.

Section 9 – Timetable of Contract

The contract will commence soon after the bidder is chosen and will reflect the time period stated in the Agreement to Purchase Services.

The Provider will be expected to have the Wind Assessment completed by December 31, 2011.

The OEIS and the Provider will refine the Wind Assessment in January 2011 and have a final product to be submitted to the Maine State Legislature, Joint Standing Committee on Energy, Utilities and Technology no later than February 1, 2011.

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No: _____

STATE OF MAINE
DEPARTMENT OF _____
Agreement to Purchase Services

THIS AGREEMENT, made this _____ day of _____, _____, is by and between the State of Maine, _____, hereinafter called "Department," and _____, located at _____, telephone number _____, hereinafter called "Provider", for the period of _____ to _____.

The AdvantageME Vendor/Customer number of the Provider is _____

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

Rider A - Specifications of Work to be Performed
Rider B - Payment and Other Provisions
Rider C – Exceptions to Rider B
Rider D, E, and/or F – (At Department's Discretion)
Rider G – Identification of Country in Which Contracted Work will be Performed

IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in _____ original copies.

DEPARTMENT OF

By:

Name and Title, Department Representative

and

Wind Development Assessment
Request for Proposals

By:

Name and Title, Provider Representative

Total Agreement Amount: \$_____

Approved: _____
Chair, State Purchases Review Committee
BP54 (Rev 6/04)

Wind Development Assessment
Request for Proposals

AdvantageME ACCOUNT CODING

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

VC NUMBER	DOC TOTAL	FND	DEPT	UNIT		SUB UNIT		OBJ		JOB NO.	PROGRAM

RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED

RIDER B
METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT** \$ _____

2. **INVOICES AND PAYMENTS** The Department will pay the Provider as follows:

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.

3. **BENEFITS AND DEDUCTIONS** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.

4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:

Name: _____
Title: _____

Address: _____

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.

7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.

8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:

a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing

provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO PUBLIC RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.

19. **NOTICE OF CLAIMS** The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a "risk retention group" insurer prior to July 1,

1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHTS** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement up to any amounts due and owing to the State with regard to this Agreement, any other Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

RIDER C
EXCEPTIONS TO RIDER B

RIDER D

Not Required: For use at Department's Discretion

RIDER E

Not Required: For use at Department's Discretion

RIDER F

Not Required: For use at Department's Discretion

RIDER G
IDENTIFICATION OF COUNTRY
IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:

☐

United States. Please identify state: _____

☐

Other. Please identify country: _____

Notification of Changes to the Information

The Provider agrees to notify the Division of Purchases of any changes to the information provided above.